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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,006	09/18/2006	Tony Petrus Van Endert	NL040305	3106
24737	7590	10/07/2008	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			ORTIZ CRIADO, JORGE L	
P.O. BOX 3001				
BRIARCLIFF MANOR, NY 10510			ART UNIT	PAPER NUMBER
			2627	
			MAIL DATE	DELIVERY MODE
			10/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/599,006	VAN ENDERT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	JORGE L. ORTIZ CRIADO	2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 September 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 September 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.                                                           | 6) <input type="checkbox"/> Other: _____ .                        |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "relative small" in claims 1, 2 and 7 is a term which renders the claim indefinite. The term "relative small" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Dependent claims 3-6 and 8-9 fall together accordingly.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ushiyama et al.

U.S Patent Application Publication No. 2002/0176338.

As per claims 1 and 8, Ushiyama et al. discloses a method of writing including the method of and/or a method of performing optimum power control in respect of an optical storage device (11) prior to writing data thereto ([0006]), the method comprising performing an optimum power control process by:

a. performing a test write on a “relatively small” segment (test zone; Fig. 2) of said optical storage device; and b. reading back (see Fig. 5 -10) the test pattern written to said optical storage device during performance of said test write; in respect of a plurality of linear velocities of rotation of said optical storage device, so as to obtain a function mapping write speed to power (see Fig. 11),

steps (a) and (b) being performed on substantially the same relatively small segment (test zone) of said optical storage device for each of said plurality of linear velocities of rotation (see Fig. 2).

As per claim 2, Ushiyama et al. discloses wherein the relatively small segment comprises the outermost radius of the optical storage device (11) (see Fig. 2; outer periphery).

As per claim 3, Ushiyama et al. discloses wherein an optimum power control process performed at both the innermost and the outermost radii of the optical storage device (see Fig. 11).

As per claim 4, Ushiyama et al. discloses wherein said optimum power control process is performed at the write speed associated with the innermost radius (see Fig., 11; [0050]).

As per claim 5, Ushiyama et al. discloses wherein power factor (correction coefficient; interpolation) is generated using the results of an optimum power control process performed at a plurality of different write speeds on said outermost radius of the optical storage device ([0050]-[0051]).

As per claim 6, Ushiyama et al. discloses wherein the optical storage device (10) comprises a zoned constant linear velocity (ZCLV) disc or a constant angular velocity (CAV) disc (see [0056]).

Claims 7 and 9 are drawn to the apparatus using the method claims 1 and 8 above, and are rejected for the same reasons of anticipation.

### *Conclusion*

The prior art made of record cited on PTO-892 document and not relied upon are considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JORGE L. ORTIZ CRIADO whose telephone number is (571)272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/  
Primary Examiner, Art Unit 2627